IN THE UNITED STATES DISTRICT COURT	
FOR THE NORTHERN DISTRICT OF CALIFORNI	Α

THE ANSCHUTZ CORPORATION,

No. C 09-03780 SI

MOTION TO COMPEL

Plaintiff,

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S

V.

MERRILL LYNCH & CO., et al.,

Defendants.

Currently before the Court is defendant Fitch, Inc.'s motion to compel further responses by plaintiff The Anschutz Corporation's ("TAC") to Fitch's Interrogatories Nos. 3-4 and to compel TAC to add Paul Grigel as a custodian. Docket No. 331.

- 1. With respect to Interrogatory No. 3, the Court agrees with TAC that as phrased the interrogatory is impermissibly overbroad, as it potentially encompasses thousands upon thousands of documents. However, Fitch's narrowed request as framed in its motion to compel that TAC be required to identify "reports" "summarizing or analyzing Anschutz's ARS," is more appropriate. Therefore, the Court GRANTS Fitch's request in part and compels TAC to provide a supplemental interrogatory response identifying the following: reports created by TAC that summarize or analyze TAC's ARS investments.
- 2. With respect to Interrogatory No. 4, which asks TAC to identify the "author, recipients, and any other person or entity that received or reviewed each of the" documents identified in response to Interrogatory No. 3, the Court GRANTS Fitch's request in part and compels TAC to provide a supplemental interrogatory response identifying the following: the author and recipient(s) of each report identified in its supplemental response to Interrogatory No. 3.

3. With respect to Paul Grigel, the Court finds that Fitch has not made a showing that Grigel was sufficiently involved with plaintiff's ARS investments to require that he be added as a custodian. TAC asserts that Grigel's only involvement with TAC's ARS investments was one call to S&P at the request of a TAC executive in November 2007, after the ARS market failures. In the absence of any evidence – other than one S&P document memorializing that one call – that Grigel played a larger role in TAC's ARS investments, the Court will not order that Grigel be added as a custodian. Fitch's motion to compel on this issue is DENIED without prejudice. The Court, however, will accept TAC's compromise position and compel TAC to produce any responsive documents that Grigel has in his possession.

The supplemental responses required shall be provided within thirty days of the date of this Order.

## IT IS SO ORDERED.

Dated: February 6, 2012

United States District Judge